

## REMARKS

Claims 1-10 are pending in the application. Claims 1 and 5 have been amended. Reconsideration of this application is respectfully requested.

Claim 1 has been amended to clarify that the recording of location data items independently of making image recordings is done in response to triggerings of location data items.

It is noted with appreciation that the Office Action has indicated that claims 5-8 would be allowable if rewritten to include all the limitations of the base claim and of any intervening claims. Claim 5 has been amended to include the language of amended independent claim 1, there being no intervening claims. It is submitted that the amendment to claim 1 makes a clarification and, therefore, does not affect the allowability of claim 5. Accordingly, it is respectfully submitted that the amendment places claim 5 and its dependent claims 6-8 in condition to be allowed.

The Office Action has objected to the specification because reference numeral 23 at page 14, line 19 should be reference numeral 25. The specification has been amended to change reference numeral 23 to reference numeral 25 at page 14. Accordingly, it is submitted that the amendment obviates the objection to the specification and, therefore, that the objection should be withdrawn.

The Office Action rejects claims 1-3 and 9 under 35 U.S.C. 102(b) as anticipated by Japanese Publication No. 10-023398 to Yasukawa, hereafter Yasukawa.

Claim 1, as amended, recites:

“a location recording subsystem for recording, independently of the making of a said image recording, location data items in response to respective user triggerings, these location data items and those associated with the location-stamped image recordings being recorded in a sequential association with each other”.

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Thus, the digital camera of amended claim 1 provides the advantage that a user can selectively record or not record location data items.

Yasukawa lacks the above noted language of amended claim 1. Yasukawa does not disclose or teach that the location data items are recorded independently of the making of image recordings in response to user triggerings.

For the reason set forth above, it is submitted that the rejection of claims 1-3 and 9 under 35 U.S.C. 102(b) as anticipated by Yasukawa is inapplicable to amended claim 1 and its dependent claims 2, 3 and 9 and should be withdrawn.

The Office Action rejects claim 4 under 35 U.S.C 103(a) as unpatentable over Yasukawa.

This rejection is inapplicable to claim 4 since Yasukawa lacks the above noted language of amended claim 1 upon which claim 4 is dependent.

The Examiner admits that Yasukawa does not disclose or teach user-operable controls for triggering recording of location data items, but concludes that it would have been obvious to one of ordinary skill to provide user controls for operating the image recording and the location recording. This conclusion is based on the reasoning that since the image recording and location data recordings each have separate time stamps, it would be obvious to provide user controls to effect the recording of the location data items on the image recording. However, Yasukawa teaches that the time stamps of the location data and the

image data are used in an off-line computer to match the location data with an image to create an image file containing the time stamp data as well as the location data. No where does Yasukawa teach that user operable controls be provided to trigger recording of location data.

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Moreover, the Examiner provides no motivation for one skilled in the art to provide user-operable controls for triggering recording of the location data. In fact, the Examiner's suggestion is improperly based on the hindsight of Applicant's disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

For the reasons set forth above, it is submitted that the rejection of claim 4 under 35 U.S.C. 103(a) is inapplicable and should be withdrawn.

The Office Action rejects claim 10 under 35 U.S.C 103(a) as unpatentable over Yasukawa in view of U.S Patent No. 6,304,729 to Honda et al., hereafter Honda.

This rejection is inapplicable to claim 10 since Yasukawa lacks the above noted language of claim amended claim 1 upon which claim 10 is dependent. In the rejection of claim 10, the Examiner admits that Yasukawa does not disclose or teach user-operable controls for triggering recording of location data items. Independent claim 1, as amended, clearly recites that the location data items are recorded in response to user triggerings. For the reasons set forth in the

discussion of claim 4, Yasukawa does not disclose or teach that the location data are recorded in response to user triggerings.

Honda, which was cited as showing cellular radio subsystem, does not supply the user triggerings that Yasukawa lacks.

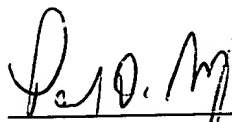
For the reason set forth above, it is submitted that the rejection of claim 10 under 35 U.S.C. 103(a) is inapplicable and should be withdrawn.

The Office Action cites a number of patents that were not applied in the rejections of the claims. These patents have been reviewed, but are believed to be inapplicable to the claims.

It is respectfully requested for the reasons set forth above that the objection to the specification be withdrawn, that the rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) be withdrawn, that claims 1-10 be allowed and that this application be passed to issue.

Respectfully Submitted,

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